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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,598	01/14/2002	Andrzej Rokicki	P-1115	5752

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EXAMINER
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HENDRICKSON, STUART L

ART UNIT	PAPER NUMBER
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1754

DATE MAILED: 07/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/047,598

Applicant(s)

ROKICKI ET AL.

Examiner

Stuart Hendrickson

Art Unit

1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-7, 9, 11-14, 16, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hindin et al. 3945946.

Hindin teaches in column 2 and ex. 3 a catalyst having overlapping amounts of the metals. Also taught in ex. 3 is sodium- some would inherently be present in the catalyst, as the method is essentially the same as the instant. Hindin differs only in not exemplifying eta alumina, instead teaching it as one alternative. Using it, and the claimed amounts of metals, is an obvious expedient to optimize a catalyst; In re Boesch 205 USPQ 215.

Claims 8, 10, 15, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hindin et al. as applied to claims 1-7, 9, 11-14, 16, 18-20 above, and further in view of Shinohara et al. 3976034.

Hindin does not teach the deliberate addition of alkali promoter, however Shinohara does in column 4 in a similar catalyst. Using alkali is an obvious expedient to make a more effective catalyst.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zimmerman et al. 5378350 taken with Hindin et al. and Ahlberg 2374404.

Zimmerman teaches the claimed catalyst, except in not specifying eta alumina. Hindin teaches this form, and that it is stabilized. Since Zimmerman uses the same stabilizers as Hindin (see Ahlberg col. 2), the use of eta alumina is implied or obvious. Using eta alumina in the process of Zimmerman is an obvious expedient to make a stabilized catalyst.

Claims 1-7, 9, 11-14, 16, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahlberg taken with Hindin et al.

Ahlberg teaches Cr on alumina, with zirconium stabilizer. Ahlberg does not explicitly recite eta alumina, however Hindin teaches it in a stabilized catalyst. Since Ahlberg uses the same

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stabilizer as Hindin (see Ahlberg col. 2), the use of eta alumina is implied or obvious. Using eta alumina in the process of Ahlberg is an obvious expedient to make a stabilized catalyst.

**Applicant's arguments filed 6/17/04 have been fully considered but they are not persuasive.**

The argument that only Hindin teaches eta is not persuasive, as one reference is enough. Further, eta alumina may be instantly envisioned from the generic 'alumina' due to the small number of types of alumina; this is sufficient 'motivation' to choose it. Note In re Boesch 205 USPQ 215. Hindin teaches 'about 2%' Zr, which overlaps the claimed 'about 1%' due to the variation of 'about'. That a catalyst is called oxidation catalyst is of no moment; the catalyst contains the same elements, so the present catalyst is also an oxidation catalyst. The allegation that zirconium stabilizing alumina is 'surprising' is not accepted, given that the prior art explicitly teaches this. The use of the eta form by Zimmerman is encompassed by the generic recitation and hence is obvious. The Declaration is persuasive, and a claim limited to the showing of 19% Cr and 0.7% Zr would be allowed. The claims are not so limited, however.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.



Stuart Hendrickson  
examiner Art Unit 1754